

Senate Study Bill 3068 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT
OF COMMERCE/ALCOHOLIC
BEVERAGES DIVISION BILL)

A BILL FOR

1 An Act relating to alcoholic beverage control and matters under
2 the purview of the alcoholic beverages division of the
3 department of commerce.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.9, subsection 5, Code 2016, is
2 amended to read as follows:

3 5. To grant and issue beer permits, wine permits, special
4 permits, liquor control licenses, and other licenses; and to
5 suspend or revoke all such permits and licenses for cause under
6 this chapter.

7 Sec. 2. Section 123.10, subsections 4 and 6, Code 2016, are
8 amended to read as follows:

9 4. Prescribing forms or information blanks to be used for
10 the purposes of this chapter. ~~The division shall prepare,~~
11 ~~print, and furnish all forms and information blanks required~~
12 ~~under this chapter.~~

13 6. Providing for the issuance and electronic distribution
14 of price lists which show the price to be paid by class "E"
15 liquor control licensees for each brand, class, or variety
16 of liquor kept for sale by the division, providing for the
17 filing or posting of prices charged in sales between class
18 "A" beer and class "A" wine permit holders and retailers, as
19 provided in this chapter, and establishing or controlling
20 the prices based on minimum standards of fill, quantity, or
21 alcoholic content for each individual sale of intoxicating
22 liquor or beer as deemed necessary for retail or consumer
23 protection. However, the division shall not regulate markups,
24 prices, discounts, allowances, or other terms of sale at
25 which alcoholic liquor may be purchased by the retail public
26 or liquor control licensees from class "E" liquor control
27 licensees or at which wine may be purchased and sold by class
28 "A" and retail wine permittees, or change, nullify, or vary the
29 terms of an agreement between a holder of a vintner certificate
30 of compliance and a class "A" wine permittee.

31 Sec. 3. Section 123.30, subsection 4, Code 2016, is amended
32 to read as follows:

33 4. Notwithstanding any provision of this chapter to the
34 contrary, a person holding a liquor control license to sell
35 alcoholic ~~liquors~~ beverages for consumption on the licensed

1 premises may permit a customer to remove one unsealed bottle
2 of wine for consumption off the premises if the customer has
3 purchased and consumed a portion of the bottle of wine on the
4 licensed premises. The licensee or the licensee's agent shall
5 securely reseal such bottle in a bag designed so that it is
6 visibly apparent that the resealed bottle of wine has not been
7 tampered with and provide a dated receipt for the resealed
8 bottle of wine to the customer. A wine bottle resealed
9 pursuant to the requirements of [this subsection](#) is subject to
10 the requirements of [sections 321.284](#) and [321.284A](#).

11 Sec. 4. Section 123.32, subsection 3, Code 2016, is amended
12 to read as follows:

13 3. *Licensed premises for local events.* A local authority
14 may define, by motion of the local authority, licensed premises
15 which shall be used by holders of liquor control licenses, beer
16 permits, and wine permits at festivals, fairs, or celebrations
17 which are sponsored or authorized by the local authority. The
18 licensed premises defined by motion of the local authority
19 shall be used by the holders of five-day or fourteen-day class
20 "B", class "C", special class "C", or class "D" liquor control
21 licenses, or five-day or fourteen-day class "C" native wine or
22 class "B" beer permits only.

23 Sec. 5. Section 123.34, Code 2016, is amended to read as
24 follows:

25 123.34 **Expiration — seasonal, five-day, or fourteen-day**
26 **license or permit.**

27 1. Liquor control licenses, wine permits, and beer permits,
28 unless sooner suspended or revoked, expire one year from
29 date of issuance. The administrator shall give sixty days'
30 written notice of the expiration to each licensee or permittee.
31 However, the administrator may issue six-month or eight-month
32 seasonal licenses, class "B" wine permits, or class "B" beer
33 permits for a proportionate part of the license or permit fee
34 or may issue fourteen-day liquor control licenses, native wine
35 permits, or beer permits as provided in [subsection 2](#). No

1 refund shall be made for seasonal licenses or permits or for
2 fourteen-day liquor control licenses, native wine permits, or
3 beer permits. No seasonal license or permit shall be renewed
4 except after a period of two months.

5 2. The administrator may issue fourteen-day class "A",
6 class "B", class "C", special class "C", and class "D" liquor
7 control licenses and fourteen-day class "B" beer and class "C"
8 native wine permits. A fourteen-day license or permit, if
9 granted, is valid for fourteen consecutive days, but the holder
10 shall not sell on the two Sundays in the fourteen-day period
11 unless the holder qualifies for and obtains the privilege to
12 sell on Sundays contained in [section 123.36, subsection 5](#), and
13 [section 123.134, subsection 5](#).

14 3. The fee for a fourteen-day liquor control license or
15 beer permit is one quarter of the annual fee for that class
16 of liquor control license or beer permit. The fee for the
17 privilege to sell on the two Sundays in the fourteen-day period
18 is twenty percent of the price of the fourteen-day liquor
19 control license or beer permit. The fee for a fourteen-day
20 class "C" native wine permit is the permit fee provided in
21 section 123.179, subsection 4.

22 4. The administrator may issue five-day class "A", class
23 "B", class "C", special class "C", and class "D" liquor control
24 licenses and five-day class "B" beer and class "C" native
25 wine permits. A five-day license or permit is valid for five
26 consecutive days, but the holder shall not sell alcoholic
27 beverages on Sunday in the five-day period unless the holder
28 qualifies for and obtains the privilege to sell on Sunday
29 pursuant to [sections 123.36 and 123.134](#).

30 5. The fee for the five-day liquor control license or
31 beer permit is one-eighth of the annual fee for that class of
32 license or permit. The fee for the privilege to sell on a
33 Sunday in the five-day period is ten percent of the price of
34 the five-day liquor control license or beer permit. The fee
35 for a five-day class "C" native wine permit is the permit fee

1 provided in section 123.179, subsection 4.

2 Sec. 6. Section 123.38, subsections 1 and 2, Code 2016, are
3 amended to read as follows:

4 1. A special ~~liquor~~ permit, liquor control license, wine
5 permit, or beer permit is a personal privilege and is revocable
6 for cause. It is not property nor is it subject to attachment
7 and execution nor alienable nor assignable, and it shall
8 cease upon the death of the permittee or licensee. However,
9 the administrator of the division may in the administrator's
10 discretion allow the executor or administrator of a permittee
11 or licensee to operate the business of the decedent for a
12 reasonable time not to exceed the expiration date of the permit
13 or license. Every permit or license shall be issued in the
14 name of the applicant and no person holding a permit or license
15 shall allow any other person to use it.

16 2. Any licensee or permittee, or the licensee's or
17 permittee's executor or administrator, or any person duly
18 appointed by the court to take charge of and administer the
19 property or assets of the licensee or permittee for the benefit
20 of the licensee's or permittee's creditors, may voluntarily
21 surrender a license or permit to the division. When a license
22 or permit is surrendered the division shall notify the local
23 authority, and the division or the local authority shall
24 refund to the person surrendering the license or permit, a
25 proportionate amount of the fee received by the division or
26 the local authority for the license or permit as follows: if
27 a license or permit is surrendered during the first three
28 months of the period for which it was issued, the refund shall
29 be three-fourths of the amount of the fee; if surrendered
30 more than three months but not more than six months after
31 issuance, the refund shall be one-half of the amount of the
32 fee; if surrendered more than six months but not more than
33 nine months after issuance, the refund shall be one-fourth of
34 the amount of the fee. No refund shall be made, however, for
35 any special ~~liquor~~ permit, ~~nor for a~~ liquor control license,

1 wine permit, or beer permit surrendered more than nine months
2 after issuance. For purposes of this subsection, any portion
3 of license or permit fees used for the purposes authorized in
4 section 331.424, subsection 1, paragraph "a", subparagraphs
5 (1) and (2), and in [section 331.424A](#), shall not be deemed
6 received either by the division or by a local authority. No
7 refund shall be made to any licensee or permittee, upon the
8 surrender of the license or permit, if there is at the time
9 of surrender, a complaint filed with the division or local
10 authority, charging the licensee or permittee with a violation
11 of [this chapter](#). If upon a hearing on a complaint the license
12 or permit is not revoked or suspended, then the licensee or
13 permittee is eligible, upon surrender of the license or permit,
14 to receive a refund as provided in [this section](#); ~~but.~~ However,
15 if the license or permit is revoked or suspended upon hearing,
16 the licensee or permittee is not eligible for the refund of any
17 portion of the license or permit fee.

18 Sec. 7. Section 123.43A, subsection 3, Code 2016, is amended
19 to read as follows:

20 3. A micro-distillery shall not sell micro-distilled
21 spirits other than as permitted in [this chapter](#) and shall
22 not allow micro-distilled spirits sold to be consumed upon
23 the premises of the micro-distillery. However, as a part of
24 a micro-distillery tour, micro-distilled spirits ~~of no more~~
25 ~~than two ounces per person per day~~ may be tasted pursuant to
26 the rules of the division on the premises where fermented,
27 distilled, or matured, when no charge is made for the tasting.

28 Sec. 8. Section 123.46A, subsection 2, paragraph h, Code
29 2016, is amended to read as follows:

30 h. Deliveries shall be made in a vehicle owned, or leased,
31 ~~or under the control of~~ by the licensee or permittee.

32 Sec. 9. Section 123.56, subsections 2 and 6, Code 2016, are
33 amended to read as follows:

34 2. Native wine may be sold at retail for off-premises
35 consumption when sold on the premises of the manufacturer,

1 or in a retail establishment operated by the manufacturer.
2 Sales may also be made to class "A" or retail wine permittees
3 or liquor control licensees as authorized by the class
4 "A" wine permit. A manufacturer of native wines shall not
5 sell the wines other than as permitted in this chapter and
6 shall not allow wine sold to be consumed upon the premises
7 of the manufacturer. However, prior to sale, native wines
8 may be tasted pursuant to the rules of the division on the
9 premises where made, when no charge is made for the tasting.
10 ~~A person may manufacture native wine for consumption on the~~
11 ~~manufacturer's premises, when the wine or any part of it is not~~
12 ~~manufactured for sale.~~

13 6. Notwithstanding any other provision of this chapter,
14 a person employed by a manufacturer of native wine holding a
15 class "A" native wine permittee permit may be employed by a
16 brewery with a class "A" native beer permit provided the person
17 has no ownership interest in either licensed premises.

18 Sec. 10. Section 123.92, subsection 2, paragraph a, Code
19 2016, is amended to read as follows:

20 a. Every liquor control licensee ~~and~~, class "B" beer
21 permittee, and class "C" native wine permittee, except a class
22 "E" liquor control licensee, shall furnish proof of financial
23 responsibility by the existence of a liability insurance
24 policy in an amount determined by the division. If an insurer
25 provides dramshop liability insurance at a new location to
26 a licensee or permittee who has a positive loss experience
27 at other locations for which such insurance is provided by
28 the insurer, and the insurer bases premium rates at the new
29 location on the negative loss history of the previous licensee
30 or permittee at that location, the insurer shall examine and
31 consider adjusting the premium for the new location not less
32 than thirty months after the insurance is issued, based on the
33 loss experience of the licensee or permittee at that location
34 during that thirty-month period of time.

35 Sec. 11. Section 123.171, Code 2016, is amended to read as

1 follows:

2 **123.171 Wine certificate, permit, or license required —**
3 **exception for personal use.**

4 1. A person shall not cause the manufacture, importation,
5 or sale of wine in this state unless a certificate or permit
6 as provided in [this subchapter](#), or a liquor control license as
7 provided in [subchapter I of this chapter](#), is first obtained
8 which authorizes that manufacture, importation, or sale.

9 2. Any person of legal age may manufacture wine for
10 personal use without a class "A" wine permit, subject to the
11 requirements of this subsection. Such wine may be consumed
12 on the premises or removed from the premises where it was
13 manufactured only if the wine is not sold, exchanged, bartered,
14 dispensed, or given in consideration of purchase for any
15 property or services or in evasion of the requirements of this
16 chapter.

17 Sec. 12. Section 123.173, subsection 2, Code 2016, is
18 amended to read as follows:

19 2. A class "A" wine permit allows the holder to manufacture
20 and sell, or sell at wholesale, in this state, wine ~~as defined~~
21 ~~in [section 123.3, subsection 47](#)~~. The holder of a class "A"
22 wine permit may manufacture in this state wine having an
23 alcoholic content greater than seventeen percent by weight or
24 twenty-one and twenty-five hundredths percent of alcohol by
25 volume for shipment outside this state. All class "A" premises
26 shall be located within the state. A class "B" or class "B"
27 native wine permit allows the holder to sell wine at retail
28 for consumption off the premises. A class "B" or class "B"
29 native wine permittee who also holds a class "E" liquor control
30 license may sell wine to class "A", class "B", and class "C",
31 and special class "C" liquor control licensees for resale for
32 consumption on the premises. Such wine sales shall be in
33 quantities of less than one case of any wine brand but not more
34 than one such sale shall be made to the same liquor control
35 licensee in a twenty-four-hour period. A class "B" or class

1 "B" native wine permittee shall not sell wine to other class
2 "B" or class "B" native wine permittees. A class "C" native
3 wine permit allows the holder to sell wine for consumption on
4 or off the premises.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 This bill makes several changes relative to matters
9 under the purview of the alcoholic beverages division of the
10 department of commerce.

11 Code section 123.9 is amended to add wine permits to the list
12 of licenses and permits that are issued by the administrator of
13 the alcoholic beverages division.

14 Code section 123.10 is amended by striking the requirement
15 that the alcoholic beverages division prepare, print,
16 and furnish paper forms and by allowing the alcoholic
17 beverages division to distribute monthly pricing to licensees
18 electronically.

19 Code section 123.30(4), concerning the ability of a
20 licensee to reseal bottles of wine that have been purchased and
21 partially consumed on the premises by their patrons, is amended
22 to grant this authority to all liquor control licensees that
23 sell alcoholic beverages, and not just to those licensees that
24 sell alcoholic liquor.

25 Code section 123.32 is amended to specifically list the
26 types of liquor control licenses and wine or beer permits that
27 may be issued on a temporary basis for local events.

28 Code section 123.34, concerning temporary licenses, is
29 amended to provide that a special class "C" liquor control
30 license and a class "C" native wine permit may be issued on a
31 temporary basis and to provide that the fee to obtain a 5-day
32 or 14-day class "C" native wine permit is the same as the fee to
33 obtain the annual permit.

34 Code section 123.38, concerning the nature of a permit
35 or license, is amended to eliminate the term "liquor" when

1 referring to a special permit.

2 Code section 123.43A, concerning micro-distilled spirits, is
3 amended to eliminate the amount limit for a tasting as part of
4 a tour of the manufacturing facility. The bill provides that
5 micro-distilled spirits may be tasted pursuant to rules of the
6 alcoholic beverages division.

7 Code section 123.46A, concerning delivery of alcoholic
8 beverages by retailers, is amended to provide that deliveries
9 by a retailer shall only be made in a vehicle owned or leased
10 by the licensee or permittee.

11 Code section 123.56, concerning native wines, is amended
12 to provide that tastings of native wine on the premises
13 where made shall be allowed pursuant to rules adopted by the
14 alcoholic beverages division. The section is also amended to
15 strike reference to a class "A" native beer permit and instead
16 references a class "A" beer permit in language relating to
17 employment of persons who are also employed by a native wine
18 manufacturer. The bill also strikes language that pertains
19 to wine that is made for personal use when it is made on the
20 premises of a manufacturer.

21 Code section 123.92, concerning dramshop liability, is
22 amended to require class "C" native wine permit holders to
23 furnish proof of financial responsibility by obtaining dramshop
24 insurance as a condition of obtaining a new or renewal permit.

25 Code section 123.171 is amended to allow any person of legal
26 age to manufacture wine for personal use without a class "A"
27 wine permit if the wine is not sold or otherwise given in
28 consideration of purchase for any property or services or in
29 evasion of the requirements of Code chapter 123.

30 Code section 123.173(2) is amended to authorize class "E"
31 liquor control license holders to sell limited quantities of
32 wine at wholesale to special class "C" liquor control license
33 holders.